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Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Notice of *Ex Parte* Presentation by Thrifty Call, Inc.

***Petition for Declaratory Ruling Concerning BellSouth
Telecommunications, Inc. Tariff F.C.C. No. 1
CCB-CPD File No. 01-17***

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commissioner's Rules, Thrifty Call, Inc. ("TCI"), by its attorneys, submits this notice in the above-captioned docketed proceeding of an oral *ex parte* presentation made on January 14, 2003 during a meeting with Joi L. Roberson Nolen, Wireline Competition Bureau, Pricing Policy Division and Lenworth Smith, Wireline Competition Bureau, Pricing Policy Division of the Federal Communications Commission. The presentation was made by Danny E. Adams, Counsel to TCI, and Joseph Price, Counsel to TCI. The attached written materials were distributed at the meeting.

During the meeting, TCI presented arguments reflected in its petition for declaratory ruling and reply comments filed in the above-referenced docketed proceeding regarding the Commission's jurisdictional separation processes and methods to resolve Percent Interstate Usage ("PIU") disputes as reflected in BellSouth's Tariff F.C.C. No. 1.

File in CCB-CPD
1/15/03

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Marlene H. Dortch
January 15, 2003
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As required by the rules, TCI hereby submits the original and two copies of this notice. Please contact the undersigned if you have any questions about this matter.

Sincerely,


W. Joseph Price

cc: Joi L. Roberson Nolen, Wireline Competition Bureau, Pricing Policy Division
Lenworth Smith, Wireline Competition Bureau, Pricing Policy Division

Attachments

BellSouth Telecommunications, Inc. Federal/State PIU - Dispute Comparison Table

| Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1 | Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. Tariff F.C.C. No. 1 | Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. North Carolina Access Services Tariff | Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. North Carolina Access Services Tariff | Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. Florida Access Services Tariff | Status of Legal Proceeding Related to BellSouth Telecommunications, Inc. Florida Access Services Tariff | Other Related State and Federal Proceedings |
|--|--|--|--|--|--|---|
| 23.10 Jurisdictional Report Requirements (A) Jurisdictional Reports (1) Percent Interstate Usage (PIU) (a) Pursuant to Federal Communications Commission Order FCC 85- 145 adopted April 16, 1985, interstate usage is to be developed as though every call that enters a customer network at a point within the same state as that in which the called station (as designated by the called station number) is situated is an intrastate communication and every call for which the point of entry is in a state other than that where the called station (as designated by the called number) is situated is an interstate communication. | Petition for Declaratory Ruling filed by Thrifty Call, Inc., August 7, 2001 FCC Ruling pending. | E23.14 Jurisdictional Report Requirements (A) Jurisdictional Reports (1) Percent Interstate Usage (PIU) (a) The intrastate usage is to be developed as though every call that originates within the same state as that in which the called station (as designated by the called station number) is situated is an intrastate communication and every call for which the point of origination is in a state other than that where the called station (as designated by the called number) is situated is an interstate communication. | BellSouth filed a complaint against Thrifty Call, Inc. with the North Carolina Utilities Commission (NCUC), May 11, 2000. By August 10, 2001, NCUC issues order and denies related Thrifty Call Motions. Thrifty Call appeals NCUC order to North Carolina Court of Appeals; order denying appeal issued November 19, 2002. Motion to Avoid Inconsistency with Federal Tribunal by Holding Proceeding in Abeyance, Referring Matter to the FCC, and/or Requesting FCC to Submit Amicus Curiae brief and Petition for Rehearing denied January 9, 2003. Motion for Review by NC Supreme Court due January 24, 2003. | E23.14 Jurisdictional Report Requirements (A) Jurisdictional Reports (1) Percent Interstate Usage (PIU) (a) The intrastate usage is to be developed as though every call that originates within the same state as that in which the called station (as designated by the called station number) is situated is an intrastate communication and every call for which the point of origination is in a state other than that where the called station (as designated by the called number) is situated is an interstate communication. | Florida Public Service Commission grants Thrifty Call, Inc. Motion to Stay pending FCC ruling. FPUC staff audit commences, November 21, 2001. | Criminal Proceedings (2): (1) 4 Texas men charged with defrauding Ameritech and AT&T, July 18, 2001; (2) NTS Communications, Inc. and two executive plead guilty to fraud charges for fees allegedly due Southwestern Bell. Other Civil Litigation: (1) Global Crossing, Inc. BellSouth sues Global Crossing throughout its territory at state PUCs (except for one state), October 2001; Global Crossing sues BellSouth in federal district court, October 2001; federal district court denies BellSouth motion to dismiss, May 10, 2002. (2) Vartec Telecom, Inc. also sued in at least four state PUCs in BellSouth region, October 2001; |

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NTS pleads guilty to felony fraud charges

By CHRIS VAN WAGENEN
A-J BUSINESS EDITOR

NTS Communications Inc. and its two top executives pleaded guilty Thursday to felony charges resulting from a 14-month federal investigation into a scheme to defraud Southwestern Bell of millions of dollars in fees for NTS customers' calls within Texas.

NTS, a Lubbock-based tele communications company, pleaded guilty to five counts of mail fraud, according to the U.S. Attorney's Office in San Antonio.

Barbara Andrews, NTS president, and Brad Worthington, chief operating officer, each pleaded guilty to misprision of felony or knowingly concealing and failing to report the scheme, according to prosecutors.

The government said formal pleas will be entered later.

NTS must reimburse South western Bell \$22 million — \$13 million in a lump sum payment and the balance over a period of four quarters starting in June, court documents indicate.

Both Andrews and Worth ington received three years'

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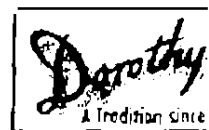
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probation, according to court documents.

As part of its five-year probationary agreement, NTS will report 50 percent of its usage fees as in-state calls, according to Southwestern Bell. The underreporting of in-state calls was the chief government complaint.

The government said NTS knowingly underpaid for in-state calls by claiming that virtually all of its customers made less expensive out-of-state calls.

From November 1996 through June 2001, Southwestern Bell lost an estimated \$76.3 million, which was underreported, the Justice Department said.

Southwestern Bell had no way to monitor the percentage of in-state versus out-of-state activity and was forced to rely on percentage interstate usage reports issued by NTS, the Justice Department said.

The government said Andrews and Worthington were aware of the practice but did nothing to stop it.

NTS concealed and disguised the true amount of the more expensive intrastate traffic that traveled through Southwestern Bell lines and switches, the Justice Department said.

Andrews said she couldn't comment on specifics of the case. However, she said NTS will survive despite the setback.

"This is obviously a heavy blow, but we'll overcome it," she said.

On Wednesday, Andrews met with employees at the company's 5307 W. Loop 289 headquarters to inform them about the plea and what it will mean to NTS.

Andrews said no layoffs are planned and the company will continue to execute its business plan in markets it now serves.

Southwestern Bell, based in San Antonio, said in a statement that NTS misreported 99 percent to 100 percent of its long-distance (intrastate) traffic.

"It is SBC/Southwestern Bell's position that NTS's criminal fraud violated basic principles of competition fairness," the

company stated, noting that NTS also abused the regulatory process by refusing to cooperate with Southwestern Bell when it first learned of the scheme.

Southwestern Bell spokesman **Bill Noble** said the NTS pleas should send a message to other companies misrepresenting usage of Bell lines.

Noble would not comment on whether investigations are now pending against other companies.

He said Southwestern Bell was dumbfounded when NTS decided to argue against an audit of its system before the Texas Public Utility Commission, which apparently helped trigger the investigation.

"We'll continue to work with law enforcement if others are engaged in this type of process, but this is fair warning to them," Noble said.

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Phone firms lose millions in scheme

Ameritech, AT&T defrauded on charges for long-distance calls; 4 Texas men indicted.

By *Terry Horne*
Indianapolis Star

July 18, 2001

Four Texas businessmen have been charged with defrauding Ameritech and AT&T of more than \$5 million in local service charges for long-distance calls placed to Indianapolis through a discount telecommunications company.

A 30-count indictment unsealed Tuesday in U.S. District Court alleged the Texans also operated similar schemes in other cities, including Tampa, Fla., and Charlotte, N.C., during the past four years.

Assistant U.S. Attorney Donna Eide said investigators had not yet tabulated the loss to the telephone companies in those cities and others. She said it likely would involve tens of millions of dollars.

Two of the Texans, Lacy Ward, 50, and Shane Gregg, 32, were arrested Tuesday in their hometown of Kilgore. The others, Danny Hodges, 39, of Henderson and Robert Seale, 50, of Victoria, were expected to surrender today to federal authorities in Texas, Eide said.

The indictment charges that the defendants, under company names such as Ward Products and National Marketing, went to Ameritech and two AT&T subsidiaries that provide local telephone service in Indiana. The charges say the defendants told the companies that they were a telemarketing company and needed local access telephone lines, known as T-1's, to make local calls.

Instead, the defendants contracted with a discount telecommunication company, Thrifty Call Inc., which was acquired last year by Grande Communications, to provide access to customers in the local Indianapolis calling area.

This allowed Thrifty Call, and later Grande, to route long-distance calls to Indianapolis-area customers without paying Ameritech and AT&T for the "termination charges" they would have collected normally, the grand jury charged.

The Texans bought the T-1 lines at a flat, discount rate, instead of at the higher, per-minute rate for termination charges.

As many as 6 million long-distance calls a month were being routed through T-1 lines, which collectively could handle **672** calls at once, according to the grand jury.

Grande was not charged in the indictment, and the company's **senior** executives could not be reached for comment.

Ward also could not be reached.

A woman answering the phone at Gregg's residence said, "We have no comment" and hung up.

Hodges said he would like to talk, particularly because the government had not asked the defendants for their side of the story. "I just need to talk to my attorney first," he said.

Seale's attorney, James Voyles, said **his** client had no comment. Seale **was** named in a conspiracy charge and the wire fraud charges involving AT&T. The other defendants were named in all charges.

According to the indictment, Ameritech employees discovered that Ward Products was routing long-distance calls through its lines, and the company ended its contract with Ward Products on or about March 20, 2000.

The next day, Ward, Hodges, Gregg and Seale, as officers of National Marketing, obtained local-access T-1 lines from AT&T. The grand jury was told that National Marketing said it would be placing local calls for various telemarketing companies.

FBI Agent Doug Garrison **said** his agency began an investigation in September after being notified by Ameritech.

"Sometimes it's embarrassing when companies are defrauded. Sometimes companies are reluctant to report that to law enforcement, and we're pleased that they did," said Garrison, a spokesman for the FBI's Indiana office.

Ameritech spokesman Mike Marker said the company wasn't aware of any other cities where the defendants were involved with Ameritech or its parent company, SBC Communications.

"We are investigating the possibility of filing a civil suit in **this** case to recoup our losses," he said.

AT&T spokeswoman Claudia Jones said the company wasn't prepared to comment.

Contact Terry Horne at 1-317-44-6082 or via e-mail at terry.horne@indystar.com



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